

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8360 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KAILASH OIL CAKE INDUSTRIES

Versus

COLLECTOR

Appearance:

M/S THAKKAR ASSOC. for Petitioner
Mr. B.Y.Mankad, ASSTT. GOVERNMENT PLEADER for
the respondents.

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 08/12/97

ORAL JUDGEMENT

Rule. Learned A.G.P. Mr. B.Y.Mankad waives service of notice of Rule on behalf of the respondents. Kailash Oil Cake Industries has filed the present petition. The said petitioner was holding licence issued under Gujarat Essential Articles (Licence, Control and

Stock Declaration) Order, 1981 bearing licence no. 52 of 1991. It seems that after issuance of the said licence, out of 18 partners of the said partnership firm, 13 partners have retired and five partners are added subsequently by the deeds dated 15.12.93 and 30.11.96. The period of licence was expiring on 31.12.96 and therefore, an application was made to the respondent no. 2 to renew the said licence. The respondent no. 2 has refused to renew the said licence by holding that there is a complete change in the partnership and therefore, the petitioner partnership is a new entity and they will have to apply afresh and he therefore, rejected their application for renewal. Hence, the petitioner has come before this Court.

2. But it is an admitted fact that after the petitioner had applied for renewal of licence, the respondent no.1 Collector, Rajkot had not issued any notice to the present petitioner and had not heard the petitioner before passing the order in question. It is a settled law that when there is a question of granting or renewal of licence, as a principle of natural justice, the authorities must give an opportunity of being heard to the person who is seeking renewal of licence. In the present case, admittedly, principle of natural justice is not followed by the Collector of Rajkot. On that single count, the order of the Collector, Rajkot will have to be quashed and set aside. I would only direct the respondent no.1 Collector to give an opportunity of being heard to the present petitioner before passing the final order. I refrain from expressing any view regarding merits of the matter. The Collector, Rajkot has to give his own decision according to law.

3. Thus, the present petition stands allowed and the order passed by the respondent no.1 Collector, Rajkot on 25.9.97 is hereby quashed and set aside and the respondent no.1 is directed to give an opportunity of being heard to the present petitioner before taking decision on their application for renewal of licence and pass an appropriate order in accordance with law. Rule is made absolute accordingly. No order as to costs.

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